

**REMARKS**

This Reply and Amendment is intended to be completely responsive to the final Office Action. Claims 6-8, 10-11 and 13 are pending in the Application and each currently stands rejected. Upon entry of this Amendment, Claims 6-8, 10-11 and 13 will be amended to recite a combination of subject matter that the Applicants believe is not disclosed, taught or suggested by the cited references.

The Applicants believe that the Amendment places the claims in condition for allowance and respectfully request entry of the Amendment and allowance of Claims 6-8, 10-11 and 13.

**Claim Objections**

The Examiner objected to Claims 6-8, 10-11 and 13 due to several informalities. The Applicants have amended Claims 6-8, 10-11 and 13 in a manner that the Applicants believe has overcome each of the objections identified by the Examiner.

Accordingly, the Applicants respectfully request withdrawal of the objections to the claims.

**Claim Rejections – 35 U.S.C. § 102(b)**

The Examiner rejected Claims 6 and 13 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,558,378 issued to Byrd ("Byrd").

Byrd discloses a "grappling type shovel" having a "pivoting foot pedal" with a "curved portion 48 [that] permits the foot pedal 20 to rotate upwardly to a vertical orientation" (see col. 3, lines 31-38).

Claim 13 (as amended) is in independent form. Claim 13 (as amended) recites a “device for removing plants from the ground” comprising, in combination with other elements, an “elongated shaft including a fixed blade extending from the first end, the fixed blade having a gap formed therein” and a “ground support pivotally connected to the elongated shaft” with “at least two pivot blades pivotally connected to the ground support” and “the pivot blades each having a tooth cooperating with the gap in the fixed blade to form a gear connection operable to move a grip end of the blades toward one another when the second end of the elongated shaft is moved relative to the ground support.”

A “device for removing plants from the ground” as recited in Claim 13 (as amended) is not disclosed, taught or suggested by Byrd. Dependent Claim 6 (as amended) depends from Claim 13 (as amended).

Accordingly, the Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 102(b) and allowance of Claims 6 and 13.

**Claim Rejections – 35 U.S.C. § 103(a)**

The Examiner rejected Claims 6-8, 10-11 and 13 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,154,465 issued to Pakosh (“Pakosh”) in view of Byrd.

Pakosh discloses a “weed pulling tool” with “four blades 40” that are each pivotally mounted in a channel, and a foot plate 34 that is fixed to an elongated stem 14.

Independent Claim 13 has been amended, as previously described. Claims 6-8 and 10-11 depend from independent Claim 13 (as amended).

The “device for removing plants from the ground” as recited in Claim 13 (as amended) is not disclosed, taught or suggested by Pakosh, alone or in any proper combination with Byrd. Neither Pakosh nor Byrd (individually or in any proper combination) disclose “pivot blades each having a tooth cooperating with the gap in the fixed blade to form a gear connection operable to move a grip end of the blades toward one another when the second end of the elongated shaft is moved relative to the ground support.”

Also, neither Pakosh nor Byrd (individually or in any proper combination) disclose a “device for removing plants from the ground” where “movement of the elongated shaft toward the ground support up to a predetermined point causes the blades to squeeze the plant between the blades” as required by dependent Claim 8 (as amended).

In addition, neither Pakosh nor Byrd (individually or in any proper combination) disclose a “device for removing plants from the ground” where “movement of the elongated shaft toward the ground support and beyond the predetermined point is operable to pry the blades and the plant from the ground” as required by dependent Claim 10 (as amended).

Further, neither Pakosh nor Byrd (individually or in any proper combination) disclose a “device for removing plants from the ground” where “movement of the elongated shaft toward the ground support is operable to move the grip end of the fixed blade toward the pivot blades, and movement of the fixed blade is operable to move the grip ends of the pivot blades toward the fixed blade by the interaction at the gear connection” as required by dependent Claim 11 (as amended).

Accordingly, the Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of Claims 6-8, 10-11 and 13.

The Applicants believe that the present Application is now in condition for allowance. Entry of the Amendment and favorable reconsideration of the Application as amended is respectfully requested.

The Applicants have amended the claims in a manner intended to expedite issuance of certain subject matter that the Applicants believe is patentable. The Applicants do not necessarily acquiesce in the rejections or characterization of the cited references stated in the final Office Action. Accordingly, the Applicants expressly reserve the right to pursue patentability of previously claimed (or other) subject matter in this or a future proceeding.

The Examiner is invited to contact the undersigned by telephone if the Examiner believes that a telephone interview would advance the prosecution of the present application.

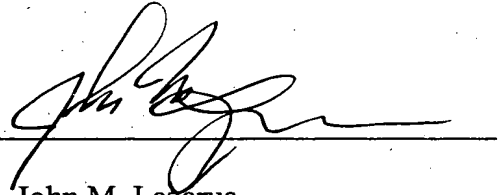
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, the Applicants hereby petition for such extension under 37 C.F.R. § 1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date: OCTOBER 14, 2005

FOLEY & LARDNER LLP  
Customer Number: 26371  
Telephone: (414) 297-5591  
Facsimile: (414) 297-4900

By



John M. Lazarus  
Attorney for the Applicants  
Registration No. 48,367